

105TH CONGRESS
1ST SESSION

S. 744

To authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 1997

Mr. JOHNSON (for himself and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fall River Water Users
5 District Rural Water System Act of 1997”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) there are insufficient water supplies of rea-
2 sonable quality available to the members of the Fall
3 River Water Users District Rural Water System lo-
4 cated in Fall River County, South Dakota, and the
5 water supplies that are available are of poor quality
6 and do not meet minimum health and safety stand-
7 ards, thereby posing a threat to public health and
8 safety;

9 (2) past cycles of severe drought in the south-
10 eastern area of Fall River County have left residents
11 without a satisfactory water supply, and, during
12 1990, many home owners and ranchers were forced
13 to haul water to sustain their water needs;

14 (3) because of the poor quality of water sup-
15 plies, most members of the Fall River Water Users
16 District are forced to either haul bottled water for
17 human consumption or use distillers;

18 (4) the Fall River Water Users District Rural
19 Water System has been recognized by the State of
20 South Dakota; and

21 (5) the best available, reliable, and safe rural
22 and municipal water supply to serve the needs of the
23 Fall River Water Users District Rural Water Sys-
24 tem members consists of a Madison Aquifer well, 3

1 separate water storage reservoirs, 3 pumping sta-
2 tions, and approximately 200 miles of pipeline.

3 (b) PURPOSES.—The purposes of this Act are—

4 (1) to ensure a safe and adequate municipal,
5 rural, and industrial water supply for the members
6 of the Fall River Water Users District Rural Water
7 System in Fall River County, South Dakota;

8 (2) to assist the members of the Fall River
9 Water Users District in developing safe and ade-
10 quate municipal, rural, and industrial water sup-
11 plies; and

12 (3) to promote the implementation of water
13 conservation programs by the Fall River Water
14 Users District Rural Water System.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) ENGINEERING REPORT.—The term “engi-
18 neering report” means the study entitled “Supple-
19 mental Preliminary Engineering Report for Fall
20 River Water Users District” published in August
21 1995.

22 (2) PROJECT CONSTRUCTION BUDGET.—The
23 term “project construction budget” means the de-
24 scription of the total amount of funds that are need-

ed for the construction of the water supply system,
as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL
REQUIREMENTS.—The term “pumping and inciden-
tal operational requirements” means all power re-
quirements that are incidental to the operation of in-
take facilities, pumping stations, water treatment fa-
cilities, cooling facilities, reservoirs, and pipelines to
the point of delivery of water by the Fall River
Water Users District Rural Water System to each
entity that distributes water at retail to individual
users.

(4) SECRETARY.—The term “Secretary” means
the Secretary of the Interior, acting through the Di-
rector of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term “water
supply system” means the Fall River Water Users
District Rural Water System, a nonprofit corpora-
tion, established and operated substantially in ac-
cordance with the engineering report.

**SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-
TEM.**

(a) IN GENERAL.—The Secretary shall make grants
to the water supply system for the Federal share of the

1 costs of the planning and construction of the water supply
2 system.

3 (b) SERVICE AREA.—The water supply system shall
4 provide for safe and adequate municipal, rural, and indus-
5 trial water supplies, mitigation of wetlands areas, and
6 water conservation within the boundaries of the Fall River
7 Water Users District, described as follows: bounded on the
8 north by the Angostura Reservoir, the Cheyenne River,
9 and the line between Fall River and Custer Counties,
10 bounded on the east by the line between Fall River and
11 Shannon Counties, bounded on the south by the line be-
12 tween South Dakota and Nebraska, and bounded on the
13 west by the Igloo-Provo Water Project District.

14 (c) AMOUNT OF GRANTS.—Grants made available
15 under subsection (a) to the water supply system shall not
16 exceed the Federal share under section 9.

17 (d) LIMITATION ON AVAILABILITY OF CONSTRU-
18 CTION FUNDS.—The Secretary shall not obligate funds for
19 the construction of the water supply system until—

20 (1) the requirements of the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
22 are met with respect to the water supply system;
23 and

24 (2) a final engineering report has been prepared
25 and submitted to Congress for a period of not less

1 than 90 days before the commencement of construc-
2 tion of the system.

3 **SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.**

4 Mitigation of fish and wildlife losses incurred as a
5 result of the construction and operation of the water sup-
6 ply system shall be on an acre-for-acre basis, based on eco-
7 logical equivalency, concurrent with project construction,
8 as provided in the engineering report.

9 **SEC. 6. USE OF PICK-SLOAN POWER.**

10 (a) IN GENERAL.—From power designated for future
11 irrigation and drainage pumping for the Pick-Sloan Mis-
12 souri River Basin Program, the Western Area Power Ad-
13 ministration shall make available the capacity and energy
14 required to meet the pumping and incidental operational
15 requirements of the water supply system during the period
16 beginning May 1 and ending October 31 of each year.

17 (b) CONDITIONS.—The capacity and energy described
18 in subsection (a) shall be made available on the following
19 conditions:

20 (1) The water supply system shall be operated
21 on a not-for-profit basis.

22 (2) The water supply system shall contract to
23 purchase its entire electric service requirements, in-
24 cluding the capacity and energy made available
25 under subsection (a), from a qualified preference

1 power supplier that itself purchases power from the
2 Western Area Power Administration.

3 (3) The rate schedule applicable to the capacity
4 and energy made available under subsection (a) shall
5 be the firm power rate schedule of the Pick-Sloan
6 Eastern Division of the Western Area Power Admin-
7 istration in effect when the power is delivered by the
8 Administration.

9 (4) It shall be agreed by contract among—

10 (A) the Western Area Power Administra-
11 tion;

12 (B) the power supplier with which the
13 water supply system contracts under paragraph
14 (2);

15 (C) the power supplier of the entity de-
16 scribed in subparagraph (B); and

17 (D) the Fall River Water Users District;

18 that in the case of the capacity and energy made
19 available under subsection (a), the benefit of the
20 rate schedule described in paragraph (3) shall be
21 passed through to the water supply system, except
22 that the power supplier of the water supply system
23 shall not be precluded from including, in the charges
24 of the supplier to the water system for the electric

1 service, the other usual and customary charges of
2 the supplier.

3 **SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.**

4 This Act does not limit the authorization for water
5 projects in South Dakota under law in effect on or after
6 the date of enactment of this Act.

7 **SEC. 8. WATER RIGHTS.**

8 Nothing in this Act—

9 (1) invalidates or preempts State water law or
10 an interstate compact governing water;

11 (2) alters the rights of any State to any appro-
12 priated share of the waters of any body of surface
13 or ground water, whether determined by past or fu-
14 ture interstate compacts or by past or future legisla-
15 tive or final judicial allocations;

16 (3) preempts or modifies any Federal or State
17 law, or interstate compact, dealing with water qual-
18 ity or disposal; or

19 (4) confers on any non-Federal entity the abil-
20 ity to exercise any Federal right to the waters of any
21 stream or to any ground water resource.

22 **SEC. 9. FEDERAL SHARE.**

23 The Federal share under section 4 shall be 80 percent
24 of—

1 (1) the amount allocated in the total project
2 construction budget for the planning and construc-
3 tion of the water supply system under section 4; and

4 (2) such sums as are necessary to defray in-
5 creases in development costs reflected in appropriate
6 engineering cost indices after August 1, 1995.

7 **SEC. 10. NON-FEDERAL SHARE.**

8 The non-Federal share under section 4 shall be 20
9 percent of—

10 (1) the amount allocated in the total project
11 construction budget for the planning and construc-
12 tion of the water supply system under section 4; and

13 (2) such sums as are necessary to defray in-
14 creases in development costs reflected in appropriate
15 engineering cost indices after August 1, 1995.

16 **SEC. 11. CONSTRUCTION OVERSIGHT.**

17 (a) **AUTHORIZATION.**—The Secretary may provide
18 construction oversight to the water supply system for
19 areas of the water supply system.

20 (b) **PROJECT OVERSIGHT ADMINISTRATION.**—The
21 amount of funds used by the Secretary for planning and
22 construction of the water supply system may not exceed
23 an amount equal to 3 percent of the amount provided in
24 the total project construction budget for the portion of the

1 project to be constructed in Fall River County, South Da-
2 kota.

3 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated—

5 (1) \$3,600,000 for the planning and construc-
6 tion of the water system under section 4; and

7 (2) such sums as are necessary to defray in-
8 creases in development costs reflected in appropriate
9 engineering cost indices after August 1, 1995.

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